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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/524,856

02/18/2005

Tomoyasu Nishizaki

Q86415

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23373 7590 12/26/2006
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER

FISCHER, JUSTIN R

ART UNIT

PAPER NUMBER

1733

MAIL DATE

DELIVERY MODE

12/26/2006

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

8

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/524,856

Applicant(s)

NISHIZAKI ET AL.

Examiner

Justin R. Fischer

Art Unit

1733

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-6.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See continuation sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Justin R Fischer
Primary Examiner
Art Unit: 1733

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Continuation of 11: It is argued that the present inventors discovered that the combination of a conjugate diene base polymer having a high vinyl bonding amount and a curable resin with a curing agent can achieve a high 100% elastic modulus while limiting the dynamic elastic modulus at a room temperature.

As set forth in the Final Rejection, the runflat insert composition of Teratani is extremely similar to that of the claimed invention (same molecular weights, vinyl bonding amount, molecular weight distribution). The composition is only devoid of a resin and curing agent, which are well recognized as being well known and conventional additives that are extensively used in a wide variety of tire rubber compositions, including runflat inserts, in order to provide improved mechanical properties, as shown for example by Powell and Sattelmeyer. Applicant points to Table 1 to establish a showing of unexpected results; however, Table 1 does not provided a conclusive showing of unexpected results. First, while Example 2 shows a marked improvement over Comparative Example 3, Comparative Example 3 does not constitute the closest prior art as it is not formed with a conjugated diene base polymer. As noted above, the closest prior art is the composition of Teratani, which appears to be substantially analogous to the composition of Comparative Example 2. In this instance, the inclusion of a resin and a curing agent in the composition of Comparative Example 2 provides an increased 100% elastic modulus and an increased dynamic modulus. **However, such a benefit is not unexpected in light of the prior art of record.** Powell and Sattelmeyer expressly teach the inclusion of the claimed system (resin and curing agent) as providing, among other things, improved mechanical properties, such as

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modulus. Thus, in following the teachings of the prior art, one of ordinary skill in the art at the time of the invention would have arrived at a runflat composition having the claimed properties (e.g. one in which the elastic modulus increased at a greater rate, as compared to the dynamic modulus). It is emphasized that one of ordinary skill in the art at the time of the invention would have been amply motivated to include the claimed system in the runflat insert of Teratani as improved mechanical properties are highly desirable in runflat tire compositions. Lastly, applicant has not suggested that the claimed composition (and the associated properties) results from any unique processing and thus it appears that the composition (and the associated properties) are a direct result of the makeup of the composition.



Justin R Fischer
Primary Examiner
Art Unit 1733

JRF

December 20, 2006